

AMENDING THE LAW RELATING TO INDECENT PUBLICATIONS IN THE DISTRICT OF COLUMBIA

JUNE 30, 1959.—Ordered to be printed

Mr. HARTKE, from the Committee on the District of Columbia, submitted the following

R E P O R T

[To accompany S. 715]

The Committee on the District of Columbia, to whom was referred the bill (S. 715) to amend the law relating to indecent publications in the District of Columbia, after full consideration, report favorably thereon with amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 3, line 2, after the word "property" insert the words "shall be available for the payment of such liens and for all expenses incident to such sale, and the remainder".

The purpose of this bill is to amend the law relating to indecent publications in the District of Columbia so as to authorize forfeiture to the District of Columbia of property used in connection with a violation of law relating to indecent publications (31 Stat. 1332; sec. 22-2001, D.C. Code, 1951 ed.).

The procedure prescribed for forfeiting property contemplates a libel action being brought in the municipal court for the District of Columbia in the name of the District of Columbia by the Corporation Counsel. Unless good cause be shown to the contrary, the property is forfeited to the District, and may be made available for the use of any agency of the District government or otherwise disposed of as the Commissioners may, by order or regulation, provide, except that all property of an indecent, obscene, or lewd nature, shall, upon order of the court, be destroyed. Provision is made for the sale at public auction of certain forfeited property (that is, property which is not of an indecent, obscene, or lewd nature) whenever there are bona fide liens against the property and the transfer of such liens to the proceeds of the sale.

The purpose of the amendment, which was recommended by the District of Columbia Commissioners, is to make it clear that the proceeds of the sale are available for the payment of bona fide liens and expenses incident to the sale.

The District of Columbia Commissioners recommended another amendment to the bill so as to provide that proceedings for forfeiture of property seized under the authority of section 866 of the act of March 3, 1901, as amended (sec. 22-1505, D.C. Code, 1951 ed.), relating to gambling, be modified to conform with the procedure set forth in this bill. Your committee is of the view that since the proposed amendment relates to another subject, it would be unwise to include it in this proposal. It is the feeling of the committee that this matter should be considered in another bill relating to the gambling statute.

Enactment of this legislation involves no expenditure to the District of Columbia.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law in the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

(31 STAT. 1332)

SEC. 872. (a) INDECENT PUBLICATIONS.—Whoever sells, or give away, in the District, or has in his possession with intent to sell or give away or to exhibit to another, any obscene, lewd, or indecent book, pamphlet, drawing, engraving, picture, photograph, instrument, or article of indecent or immoral use, or advertises the same for sale, or writes or prints any letter, circular, handbill, book, pamphlet, or notice of any kind stating by what means any of such articles may be obtained, or advertises any drug, nostrum, or instrument intended to produce abortion, or gives or participates in, or by bill, poster, or otherwise advertises, any public exhibition, show, performance, or play containing obscene, indecent, or lascivious language, postures, or suggestions, or otherwise offending public decency, shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned not more than one year, or both.

(b) *Any vehicle, fixture, equipment, stock, or any personalty (including, without limitation, vehicles, equipment, fixtures, or things adaptable to a lawful use) used or to be used in connection with (1) the sale, distribution, manufacture, or showing of any article or material, or (2) the advertising or staging of any exhibition, the sale or advertising of which is prohibited by subsection (a) of this section, shall be subject to seizure by any member of the Metropolitan Police force or the United States Park Police, or the United States marshal, or any deputy marshal, for the District of Columbia, and shall, upon seizure, be proceeded against by libel action brought in the Municipal Court for the District of Columbia in the name of the District of Columbia by the Corporation Counsel or any of this assistants and shall, unless good cause be shown to the contrary, be forfeited to the District of Columbia and shall be made available*

for the use of any agency of the Government of the District of Columbia or otherwise disposed of as the Commissioners of the District of Columbia may, by order or regulation, provide, except that all such property of an indecent, obscene or lewd nature shall, upon order of the court, be destroyed, and any lien thereon shall be deemed not to be a bona fide lien: Provided, That if there be bona fide liens against the property so forfeited then such property shall be disposed of by public auction. Bona fide liens against property so forfeited shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property. The proceeds of the sale of such property shall be available for the payment of such liens and for all expenses incident to such sale, and the remainder shall be deposited in the Treasury of the United States to the credit of the District of Columbia.

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